



MASSACHUSETTS RIGHT TO KNOW

EMPLOYER ASSISTANCE MANUAL



Commonwealth of Massachusetts

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Executive Office of Labor and Workforce Development
Department of Labor
Division of Occupational Safety

*Prepared and updated by the Division of Occupational Safety's
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INTRODUCTION

The Division of Occupational Safety has written this Right to Know Employer Assistance Manual for you, the employer. It is especially geared for state agency managers, town administrators and community college managers. The Manual is not intended to be a substitute for reading the law, but rather to serve as a companion guidebook to the law. The Manual offers a step-by-step explanation of the legal and technical issues involved with fulfilling the workplace requirements under the Right to Know Law. It also includes updated information on DOS's Alternative Policy on compliance with the Massachusetts' Right to Know Law.

NOTE: This Manual is intended to provide public sector employers with information on how to comply with the workplace components of the law (sections 7-11, 13-15 of MGL, Ch. 111F) and workplace regulations (454 CMR 21.00), as well as applicable policies.

The Massachusetts Right to Know Law serves to protect the health of public sector employees. It does this by directing employers to communicate to their employees, information on hazardous or toxic substances in the workplace. Fundamentally, the responsibility for gathering and disseminating this information to employees rests primarily with you, the employer.

The Manual reviews all of the workplace requirements under this law and provides detailed guidelines and special tips on how to most effectively use the resources you have available. It will provide the information you need to set up and maintain your workplace Right to Know Program.

The Manual is organized so that you can use it easily and quickly to get the information you need. It is divided into four sections. The first two sections provide an overview of the law and detailed information on how to fulfill your responsibilities. The third section reviews the functions of the state agencies responsible for implementing the law and where to turn for further assistance. It also reviews the Division of Occupational Safety's enforcement activities and the penalty provisions of the Right to Know Law. The final section consists of appendices, which contain supporting information that is referenced throughout the Manual.

For further technical assistance, the Division of Occupational Safety can assist you in meeting the requirements of the law. The Division's services are provided at no cost.

NOTE: The federal Occupational Safety and Health Administration (OSHA) issued its Hazard Communication Standard, also known as the "Federal Right to Know Law". This standard applies to employers in the private sector and preempts all workplace provisions of the Massachusetts law for that sector. Public employees in Massachusetts (state, county and municipal) are not protected by the Federal Hazard Communication Standard; thus all the provisions of the Massachusetts Right to Know Law are in effect for these employers and employees.

SECTION I

OVERVIEW OF THE MASSACHUSETTS RIGHT TO KNOW LAW

A. WHAT IS THE RIGHT TO KNOW LAW?

The Massachusetts Right to Know Law (Massachusetts General Laws, Chapter 111F) was signed by Governor Michael Dukakis in November 1983 and became effective September 26, 1984. The law requires manufacturers to supply public sector employers and public sector employers to provide public employees, with information on the toxic and hazardous substances in their workplaces. In certain circumstances, public employers will also indirectly supply this information to community residents, medical personnel and other state and local officials. There are approximately 1600 substances defined as toxic or hazardous under the law. This official list of regulated substances is called the Massachusetts Substance List (see Appendix I).

It is hoped that informed public employees and their employers will make better decisions regarding work operations that involve hazardous chemicals. Public employees will be more able to recognize hazardous situations at work, and either correct the situation themselves (if possible), or alert and work with their employer.

Under the Massachusetts Right to Know Law, communication of information to employees is accomplished in three ways:



1. Material Safety Data Sheets or MSDSs: These brief documents, obtained from manufacturers and suppliers of toxic and hazardous substances, are the primary sources of information under the law. They include information such as chemical identity, physical properties, health and safety hazards, safe handling procedures, and spill, leak and disposal procedures. For an example of an MSDS, see Figure 4, p. 31-34.



2. Container Labels: The chemical contents of certain containers must appear on the label. Ideally, the label alerts workers and supervisors to the presence of toxic or hazardous chemicals. Also, such information is useful to an employee's physician, workplace health and safety committee, etc.



3. Employee Training: Employers must provide annual training to employees on the hazards and safe handling procedures of regulated substances in the workplace. New employees must also be trained within thirty days of employment.

If you, the employer, implement a workplace Right to Know program that integrates these three methods of communication, it will be an effective way of protecting the health of employees who work with hazardous products.

B. WHICH WORKPLACES ARE REGULATED BY THE RIGHT TO KNOW LAW?

When the Massachusetts Right to Know Law originally went into effect on September 26, 1984, it covered most workplaces in Massachusetts. However, the Federal Occupational Safety and Health Administration (OSHA) has issued its own Hazard Communication Standard (CFR 1910.1200). This standard applies to employers in the private sector. It preempts the workplace portions of the Massachusetts Right to Know Law in that sector.

- Manufacturers in all states who supply toxic or hazardous substances to public employers in Massachusetts must provide them with Material Safety Data Sheets (MSDSs).
- MSDSs must meet the standards of the Massachusetts Right to Know Law (see Appendix J).

There are some exclusions, although narrow in scope, based on the nature of the workplace operations. They are as follows:



1. Research Laboratories: Exemption from Right to Know coverage is available to public sector research laboratories only by applying to the Massachusetts Department of Public Health. A research lab is defined as:

"any workplace or work area of a workplace used primarily for research, development, non-routine testing or experimentation activity in which toxic or hazardous substances are used by or under the direct supervision of a technically qualified individual. Provided, however, that a research laboratory shall not be involved in the production or manufacture of goods for direct commercial sale."

Even if exempt, public research laboratories must still ensure that workers are fully informed of the hazards and safe handling procedures for regulated chemicals.



2. The Massachusetts Right to Know (RTK) Law does not cover Police Stations and Armories where ammunition is stored.



3. The Massachusetts RTK Law does not cover workplaces operated by the federal government.



For all other public sector employers, the Massachusetts RTK Law applies. But its applicability, of course, depends on whether regulated substances are used or stored in the workplace.

C. WHICH PRODUCTS ARE COVERED?

In general, the Massachusetts RTK Law covers all products that contain any of the toxic or hazardous substances on the Massachusetts Substance List (MSL) in regulated amounts. (For more information on the MSL, see Appendix I.) There are currently over 1600 substances on the MSL.

Alternatively, employers may choose to assume that all chemicals in the workplace are covered. (See Help Module 2, p. 15)

D. WHICH PRODUCTS ARE EXEMPT?

There are some major exemptions, which have been granted under the law and regulations. The Commissioner of the Division of Occupational Safety has the power to grant additional exemptions.

1. Consumer Products Consumer products are exempt from the law if:



- a. they do not contain any carcinogens, teratogens, mutagens, neurotoxins or extraordinarily hazardous substances, and
- b. they are not required to be labeled under section 7 of the law, and
- c. they are used in the workplace in such a manner that employees are exposed at a level equivalent to exposures resulting from consumer usage.

NOTE: As the employer, you will need to know what is in the product to ensure that it does not contain any extraordinarily hazardous substances. Often, the label will not provide this information and you will have to obtain an MSDS from the supplier or manufacturer (see Help Module 3, p. 23).

The second determination you must make is whether the product is being used in your workplace in such a manner that the employees are exposed at a level greater than that of consumer usage.

2. Office Supplies

All office supplies that are found in an office environment are exempt, including materials used in photographic and copying machines, if:



- a. the amount of the toxic or hazardous substance found in office supplies is equivalent to amounts and forms available to consumers, and
- b. they are used in the workplace in such a manner that employee exposure is equivalent to consumer exposure.

- 1 Food Stuffs
- 2 Gasoline, Oils and Other Additives

These products are exempt if:

- a. they are in fuel tanks, engines and other operating systems of cars or light duty trucks, and



- b. the substances are present in amounts and forms available to consumers, and
- c. they are used in such a manner that employee and environmental exposure is equivalent to consumer usage.

NOTE: Gasoline pumps at public service stations and fueling facilities are **not exempt** and must be labeled appropriately (see Help Module 4, p. 35).

5. Fuel Oils, Natural Gas, Kerosene, Petroleum or Propane

These products are exempt if:

- a. they are used for space heating or power generation purposes, and employees are not exposed to fumes or combustion by-products, and
- b. all required emission control equipment is used.

6. Alcoholic Beverages

7. Articles: Finished products or manufactured items.

These products are exempt if:

- a. they are formed to a specific shape or design during manufacture, and
- b. their end use function is dependent on its end use design or shape, and
- c. they have no change of chemical composition during end use.

E. WHAT ARE EMPLOYERS REQUIRED TO DO?

As an employer, you must determine if there are any toxic or hazardous substances used in your workplace. It is important to designate an individual to be in charge of your program. The following outline assumes that there are regulated substances in your workplace. It provides you with a list of the responsibilities and the corresponding module in this manual.

Recommended Right to Know Tasks

RIGHT TO KNOW TASKS	WHERE TO GET HELP
1. Appoint a Workplace RTK Coordinator 2. Obtain a Copy of the RTK Law & Regulations 3. Post Workplace Notice(s)	Help Module 1: "Getting Started", p. 13 DOS website: www.mass.gov/dos ; or call DOS for a copy
4. Determine Which Substances in Your Workplace are Regulated	Help Module 2: "Conducting the Right to Know Inventory"
5. Obtain MSDSs for Regulated Substances from Suppliers 6. Review MSDSs for Completeness 7. Establish Procedures for Employees (MSDS) and Others to Obtain MSDSs	Help Module 3: "Fulfilling Your Data Sheet Requirements"
8. Label Workplace Containers with Chemical Name(s)-of Contents and, if Applicable, the NFPA Code	Help Module 4: "Container Labeling"
9. Train Employees Annually on Employee Rights, How to Read an MSDS, and Specific Employee Workplace Hazards.	Help Module 5: "Employee Training"
10. Maintain a File of MSDSs 11. Keep Records of Training 12. Keep the Entire RTK Program accurate and up-to-date in Your Workplace	Help Module 6: "Record keeping And Ongoing Tasks"

SECTION II

HELP MODULES

HELP MODULE 1: GETTING STARTED

While at first it may seem that there are many tasks involved, with some organization and persistence you will get these tasks accomplished. By following the suggestions and strategies in this Manual, your job will be made easier. One key element of a successful Right to Know program is getting started on the right track. Three important tasks should be accomplished at the onset:

- A. appoint a Right to Know Coordinator.
- B. obtain and review the Right to Know (RTK) Law and Regulations,
- C. post the Right to Know Workplace Notice.

A. APPOINT A RIGHT TO KNOW COORDINATOR

It is recommended that one person be assigned the responsibility for developing and implementing your Right to Know program. In a small workplace, this person may be able to carry out all the Right to Know compliance tasks in addition to his or her regular functions. In a large workplace, the Right to Know Coordinator should be a full-time health and safety staff person (e.g., an industrial hygienist, health educator, occupational health nurse).

The Right to Know Coordinator should be familiar with the workplace and management structure. The Coordinator should have expertise in workplace health and safety and be able to enlist the assistance of safety personnel, line supervisors, company nurses or physicians, workplace safety committees, union safety representatives, private consultants, state agencies, etc. (see Directory of Assistance, Appendix A).

B. OBTAIN AND REVIEW THE LAW AND REGULATIONS

The Right to Know Law and Regulations are available to the public (to order, see Appendix C). It is important that all employers have these documents, for they contain the official requirements employers must fulfill. This guidebook can help you understand these requirements if you use it in conjunction with the law and regulations. (An index of the Right to Know Law is presented in Appendix D.)

C. POST WORKPLACE NOTICES

A Right to Know Workplace Notice must be posted in English in a central location, e.g. the lunch room, near a time clock, on a workplace bulletin board, etc. A copy of the English Workplace Notice is provided in Appendix B. If any employee speaks a language other than English, a Workplace Notice in that language; if available, must also be posted.

Workplace notices are currently available in the following languages from the Division of Occupational Safety:

English, Spanish

To obtain these Notices, call or write to this agency:

Division of Occupational Safety
1001 Watertown Street West
Newton, MA 02465
(617) 969-7177

or go to the DOS website, www.mass.gov/dos (English version only).

You are now prepared to proceed with the next step in your Right to Know program: to conduct an inventory of the chemical substances in your workplace to determine which ones are regulated. You may find through this process that regulated substances are not used or stored in your workplace. In that case, there is no need for a person to serve as Right to Know Coordinator, and Right to Know Notices need not be posted. Be aware, however, that you must determine if new products entering your workplace are regulated, or if amendments to the Massachusetts Substance List change the regulatory status of substances in your workplace (see Help Module 6, "Recordkeeping and Ongoing Tasks", p.50).

HELP MODULE 2: CONDUCTING THE RIGHT TO KNOW INVENTORY

You cannot know your obligations under the Right to Know (RTK) Law until you conduct an inventory of the products that are used or stored in your workplace. While your purchasing department can help by supplying a list of purchased products, it should not substitute for an on-site survey of the products in your workplace. This will ensure that all products (such as cleaning supplies) are recorded in your inventory. Your next step is to determine which of your workplace products are covered under the law. This determination is made by comparing the chemical names and percent composition of ingredients of workplace products with the Massachusetts Substance List (MSL). The MSL is the official list of all toxic or hazardous substances regulated by the law.

If a product in your workplace contains one or more toxic or hazardous ingredients listed on the MSL and is present at concentrations of at least 1% (2% if an impurity), that product is regulated by the RTK law. There is another class of substances called "Extraordinarily Hazardous Substances". If a substance is on this much smaller sub-list, it is regulated at a concentration of one ten-thousandth of one percent (or one part per million). For further information on the Massachusetts Substance List, see Appendix I.

Note: As an alternative to reviewing the MSL, as a matter of DOS policy, it is acceptable for an employer simply to assume that *all* chemicals for which a manufacturer has prepared a MSDS – but no others - are covered by the Right to Know Law. In this case you will still need to conduct a product inventory, as outlined below, but you will not have to compare the ingredients with the chemical names on the MSL. Most employers find this an easier alternative.

A. WORKPLACE PRODUCT INVENTORY

For each product used or stored in your workplace, it is important for you to record as much information as possible. Suggestion: Use the Product Inventory Sheet (Figure 1. p. 18).

The following is a list of each item on the Product Inventory Sheet and an explanation of its usefulness.

1. Product (trade or common) Name:

The product name is the name that is often most prominent on the label and the one that is listed in catalogs and used when making a purchase. The product name of the substance should not be confused with the chemical name(s) of the ingredient(s). If the product is made up of only one chemical, then the product name and chemical name may be

identical. You will need to use the product name when you request Material Safety Data Sheets (MSDS) from the manufacturer. (For a sample MSDS, see Figure 4. p. 31)

2. Manufacturer's (or Supplier's) Name and Address:

This information identifies the source of the product as well as where to write when requesting Material Safety Data Sheets.

3. Container Size (By Weight or Volume):

This information is necessary to determine labeling requirements (see Help Module 4, p.35).

Note: Again, as a matter of DOS policy, containers which are labeled in accordance with the OSHA Hazard Communication Standard (HCS), will also be considered to satisfy the labeling requirements of the Right to Know Law. Under the HCS containers must be labeled with the name of the product as listed on the MSDS, the health hazard warnings (including target organ health effects) and physical hazard warnings (such as flammable or corrosive). Most manufacturers label containers in accordance with this Standard, since this is a Federal law applying to all private sector workplaces. Most public sector employers will find this procedure to be an easier alternative for compliance.

4. Chemical Ingredients:

Unless you are using the alternative policy given on page 15, the chemical names of ingredients are needed to cross-match with the Massachusetts Substance List (MSL) in order to determine if the product is regulated by the RTK, Law. This information may be obtained from product labels or a Material Safety Data Sheet (MSDS).

5. Percent Composition (of Each Ingredient in the Mixture):

This will determine if an MSL substance in a product meets or exceeds the percentage requirements of the law. The concentration of a hazardous ingredient in a mixture can indicate how hazardous a material may be. In some instances this information is found on the product label, but generally you will have to get it from the MSDS.

6. Chemical Abstract Service (CAS) Number:

This is a number that is assigned to every pure chemical. It is helpful to have when checking the MSL since both chemical name and CAS number

index the MSL. Unfortunately, CAS numbers are often not found on the label, but should be found in most cases on the MSDS.

7. Work Location - areas where products are manufactured, processed, used or stored:

Location can be useful when designing a training program that will inform workers where hazardous materials may be encountered.

8. How The Product Is Used:

This information can help you in your training and also help you determine if a safer, but equally effective, product can be substituted.

PRODUCT INVENTORY SHEETFigure 1

	Product Name	Manufacturer's Name and Address	Container Size	¹ Chemical Ingredients	¹ Percent Composition	^{1,2} CAS #	Work Location	How it is Used
1.								
2.								
3.								
4.								
5.								

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1 This information is sometimes found on the container label.
 2 CAS # stands for Chemical Abstract Service number

Inventory completed by _____

Date _____

B. POSSIBLE INVENTORY PROBLEMS

In conducting your product inventory, you may have some difficulty collecting the information. The following section will explain how to deal with some of these problems.

1. Chemical Terms

The following chemical terms may be useful to you when conducting the inventory.

a. Mixture vs. Pure Substance

An important concept is the difference between a mixture and a pure substance. A mixture contains two or more ingredients' whereas a pure substance is made up of only one material. Each pure substance has its own characteristics. When the pure substances are blended together into a mixture, the mixture as a whole will have unique characteristics that are a combination of the properties of the individual ingredients.

Example: A paintbrush cleaner called "XXX" is a mixture. It is made up of benzene, toluene, xylene, acetone and methyl alcohol - five pure substances. The characteristics of the paintbrush cleaner will be a combination of the properties of the ingredients. On the other hand, a pure substance could be called "YYY" and be made up of 100% carbon tetrachloride.

b. Chemical Name vs. Product (trade) name

In the above examples, the product names are "XXX" and "YYY". However, you will need to use the chemical names of the ingredients in these products when determining if they are on the Massachusetts Substance List (MSL). The chemical name of "Spot-B-Gone" is carbon tetrachloride and "Like-Nu" has five ingredients whose chemical names are benzene, toluene, xylene, acetone and methyl alcohol. You will know if the law regulates these products if the chemical names of any of their ingredients are on the MSL.

The product name is used when writing to the supplier or manufacturer for a Material Safety Data Sheet (MSDS).

c. Chemical Family Name vs. Individual Chemical Name

Product labels and MSDSs often give the family name or generic term for the ingredients. This term does not give you the exact content of the

product because it refers to a group of chemicals. Examples of family groups that may be found on labels or MSDSs are:

- | | | |
|-------------------------------|----------------------|------------|
| - halogenated hydrocarbons | - pigments | - solvents |
| - aliphatic hydrocarbons | - metallic compounds | - acids |
| - aromatic hydrocarbons | - alcohols | - resins |
| - epoxy compounds | - ketones | - ethers |
| - phenols and their compounds | - aldehydes | - cyanates |

If the label supplies one of these family names and not the exact name of the individual chemical, you will not be able to determine if it is regulated because the Massachusetts Substance List (MSL) lists only chemical names. You will then have to obtain an MSDS on the product.

Example: Solvent is the name for a group of chemicals that are degreasing agents. Methylene chloride is the name of a pure chemical that is a solvent. Methylene chloride is listed on the MSL.

2. Obtaining the Chemical Names and Percent Composition of Ingredients

It is sometimes possible with pure chemicals to get the chemical name from the container label. This is often true of products found in labs. In mixtures, it is less likely that the product label will provide you with all the chemical ingredients and their percent composition. If you have any doubt about whether the label has provided complete information, it is strongly recommended that you get this information from a Material Safety Data Sheet (MSDS). (See Help Module 3 for assistance on how to obtain MSDSs.) Once you have all the information, you will be ready to determine which of your products are covered by the law (see p. 8).

3. Determining the Name and Address of the Manufacturer

If the container has a label with the product name but lists no manufacturer or supplier, first check to see if the purchasing department has a record for that product. If no one in your workplace has any information, call the Chemical Manufacturers Association toll-free at 1-800-262-8200 or at www.cma.com for assistance.

4. No Label on a Product

Over time the label may wear out or fall off the container. Your first step would be to see if there are any old inventories that would identify the product. Ask the employees who use the product if they have any information. The purchasing department may also have some records on

the product. As a last resort, you may have to have the product tested to determine its chemical ingredients. Only re-label a container if you can positively identify it. You must affix a suitable label as soon as possible. However, if it is a product that is no longer in use you may dispose of it, but make sure you follow state and federal hazardous waste regulations.

C. HOW TO DETERMINE WHICH PRODUCTS ARE REGULATED

NOTE: If you are following the alternative policy on page 8, you may skip this step, since you will assume that all products are covered.

You need to know the chemical ingredients of products before you can determine which products are regulated. You may be able to get this information from the label if the label provides you with the names of all of the ingredients in the product. For most products you will have to obtain the MSDS to find out exactly what is in it (see Help Module 3 on how to obtain MSDSs). After you know the chemical ingredients in your workplace products, you are ready for the following steps:

1 Compare the chemical names of ingredients of the product with those listed on the most current version of the Massachusetts Substance List (MSL). If you have the Chemical Abstract Service number (CAS #) for the ingredients, you can also use it when checking the MSL. Both chemical name and CAS index the MSL #. In fact, if available, it is better to use the CAS # because the name on the MSDS may not be listed as such on the MSL. Make a notation if a chemical ingredient is listed on the MSL. Also, be sure to identify those ingredients that are classified as "Extraordinarily Hazardous Substances" (see Appendix I). If you have any problems or need assistance, see Appendix A.

2 Determine if MSL ingredients are present at levels equal to or greater than minimum regulated concentrations, as follows: If the concentration of one or more MSL ingredients in a particular product equals or exceeds the following levels, the product is regulated under the RTK Law.

-Listed MSL Substance: 1% or, if it is an impurity, 2%

-Extraordinarily Hazardous Substances: 1 ppm, equal to one ten-thousandth of one percent

3. Compile a separate "Workplace Right to Know Substance List" that identifies the regulated substances in your workplace. The RTK requirements for regulated substances are given in subsequent Help Modules of this manual.

As stated earlier, some of the MSL substances in your workplace may be exempt from coverage under the Right to Know Law. Exemptions, listed on page 8, should be reviewed before proceeding with your RTK compliance efforts.

HELP MODULE 3: FULFILLING YOUR MATERIAL SAFETY DATA SHEET (MSDS) REQUIREMENTS

Under the Massachusetts Right to Know Law, Material Safety Data Sheets (MSDSs) are the primary means of communicating information about hazardous or toxic substances (for an example of an MSDS form see Figure 4. p. 31-34). The law requires that all employers obtain MSDSs for the toxic or hazardous substances used or stored in the workplace. (Typically, manufacturers send MSDSs automatically with the initial shipment of a product, since this is required under the federal Hazard Communication Standard.) Whenever you request an MSDS from a supplier or manufacturer, request it in writing and keep a dated copy of the request. Sending a copy of your request to the Division of Occupational Safety and Department of Public Health, documents that you have made a diligent effort to obtain the MSDS and provides proof of your compliance with certain sections of the law. Only send a copy of the request if you are having problems getting the MSDS.

A. OBTAINING MSDSs

Step 1 Letter A (sample found on the following page)

- Send a letter to the manufacturer or supplier requesting the MSDSs. The letter should include the product name and catalog code number, if any, and a copy of the MSDS criteria sheet (see Appendix J.) The MSDS Criteria Sheet will inform the manufacturer or supplier of Massachusetts's requirements for MSDSs.
- If you do not receive the MSDS within approximately three weeks send a copy of Letter A with Letter B along with any responses to the Division of Occupational Safety and Department of Public Health (see next page). This will prove that you made a diligent effort to obtain the Material Safety Data Sheet.
- Proceed to Step 2 if you have not received the MSDS within three weeks.

Step 2 Second Request for MSDSs

- Send a second letter of request to the manufacturer or supplier that refers to the first letter. Attach a copy of the first letter.
- Keep a copy of the second letter for your files and any responses that you may have received from the manufacturer or supplier.
- If you do not receive a response in two weeks, continue to Step 3.

Letter A: Suggested form letter for requesting MSDSs

Date Product Information/Customer
Service Acme Chemical Company 36
Dover Lane Nowhere. NY 02236

Dear Sir:

In accordance with the Massachusetts Right to Know Law (Massachusetts General Laws Chapter 111F), please send me a copy of the Material Safety Data Sheet(s) for the following product(s), which are manufactured by, or I purchase, from you:

Acme Soluble Lubricant Acme Chemical Cleaning Solution
Butyric Acid 2-Chloro-2-Nitropropane

The enclosed MSDS Criteria Sheet explains the requirements for Material Safety Data Sheets under the provisions of the Massachusetts Right to Know Law.

Thank you for your cooperation.
Sincerely,

Letter B: Suggested form letter to document "diligent effort"

Date

Commissioner
Division of Occupational Safety
19 Staniford Street, 2nd Floor
Boston, MA 02114

Dear Commissioner:

RE: Evidence of "Diligent Effort"

Pursuant to M.G.L. Chapter 111F, we have made written inquiries requesting MSDSs to the manufacturer/supplier of products we purchase, which are regulated under the Massachusetts Right to Know Law.

Attached are copies of the letter(s) we have sent requesting that MSDSs be forwarded to us.

To date we have not received these MSDSs. This letter and its attachments are proof of the diligent efforts we are making to obtain the required MSDSs.

Sincerely,

Step 3 Request Assistance From the Division of Occupational Safety (Letter C, see below)

- If steps 1 and 2 do not work, request assistance in writing from the Division of Occupational Safety. The request should include a copy of your letters to the manufacturer or supplier and any response received.
- Keep a copy for your file.
- Send a copy of the request for assistance letter to the manufacturer or supplier to inform them that you asked the State for assistance. Letter C shows a sample letter.

Letter C: Suggested form letter for "Request for Assistance"

Date
Program Manager
Division of Occupational Safety
1001 Watertown Street, 2nd Floor
Newton, MA 02465

Dear

re: Request for Assistance

Pursuant to M.G.L. Chapter 111F, we have made written inquiries for MSDSs to the manufacturer/supplier of products of use. Copies of our inquiries and any written responses we have received have been sent to DOS as proof of our diligent effort.

In accordance with M.G.L. Chapter 111F, Section 9, this letter is a formal request for your assistance in obtaining the MSDS from the following manufacturers/suppliers:

Name/Address of Manufacturer/Supplier
Product/or Substances Catalog Code No.

Sincerely,

cc: manufacturers/suppliers

Please note: An employer who has shown diligent efforts to obtain MSDSs and who has made a documented request for assistance to the Program Manager of DOS shall not be found to be in violation of Section 11, Section 14, and Section 16 of the Law. A diligent effort consists of making a prompt written request to a manufacturer or supplier for an MSDS and sending a copy of the request and response to the Program Manager of DOS and the Commissioner of DPH (Department of Public Health).

B. REVIEWING MSDSs

When you receive MSDSs, review them first before distributing them to employees or filing them. The following is an explanation for reviewing MSDSs.

1. *If not following the alternative policy: Review MSDSs to Determine if They List Any Substances That Are On The Massachusetts Substance List* (see Help Module 2, p. 15).

- Check off any ingredients that are on the MSL.
- For products that do not contain MSL substances, it is recommended that you keep the MSDSs. It is not a requirement. A reason to keep the MSDS is that it provides you with information on the hazards of the product. The product may be hazardous or toxic even if it is not regulated under the Massachusetts Right to Know (RTK) Law; however, you may want to separate the non-regulated MSDSs from the rest of your inventory.

2. Review MSDSs for Completeness:

Out-of-state manufacturers and suppliers may provide you with inadequate MSDSs because they are unaware of the requirements of the Massachusetts law.

- Check for blank spaces or missing information (see MSDS Criteria Sheet, Appendix J). If there is a section on the MSDS that does not apply to that product, the MSDS should state "Not Applicable" or "N/A". If the MSDS claims there is a trade secret, see below.
- If an MSDS is incomplete:
 - Return a copy of it to the manufacturer and request a complete one. (Use the MSDS Criteria Sheet presented in Appendix J.)
 - If the manufacturer does not respond, follow Steps 2 & 3 on p. 23-26.
 - Keep copies of incomplete MSDSs in a separate file until a response is received.

3. Review MSDSs for Approved Trade Secret Status:

Check that there is a number provided by the Department of Public Health on the MSDS. This number has eight digits and always begins with a 99-. An example would be 99-999-999.

- a. If the MSDS has this number, it is an approved trade secret and the manufacturer may omit from an MSDS the chemical name, common

name, CAS number or percent ingredient. All other information must be on the MSDS.

- b. If the MSDS just states, "information withheld for proprietary reasons", this does not qualify the product as an approved trade secret.

4. Keep complete MSDSs in a central location in the workplace.

C. RECORDKEEPING AND THE MSDS FILE

1. The Massachusetts Right to Know Law requires that you keep MSDSs on file for thirty years starting from the last day of product use.

2. It is important to document your efforts to obtain MSDSs. You may want to devise a form that compiles some or all of the following information:

- Product name
- Manufacturer/supplier name
- Date request for the MSDS was made
- Date the MSDS was received
- Date of second request
- Date requests for assistance to DOS were made
- Date incomplete MSDS was returned to manufacturer/supplier
- Date revised MSDS was received
- Date MSDS was filed in a central workplace location

3. The type of MSDS record keeping system or file you maintain will depend on:

- (a) The number of regulated substances you use.
- (b) The number of manufacturers/suppliers you use.
- (c) How often you change products.

4. You may want to give each product a number that you use in-house to avoid any confusion between two products or chemicals that have similar names.

5. The system may be kept on computer, in conventional files, or on card files cross-referenced to files, but the MSDSs must be located in a central location at each work site and accessible to employees upon request.

6. MSDS files may be organized by:

- product name
- manufacturer or supplier's name
- workplace location.
-

7. The system should be developed with the following criteria:

- ability for quick information retrieval,
- flexibility and capacity to allow the addition of new information,
- ease of use.

D. ACCESS TO MATERIAL SAFETY DATA SHEETS (MSDSs)

The Massachusetts Right to Know Law allows employees, community residents and others to obtain copies of the MSDSs on your workplace-regulated substances. As the employer, you can set up procedures for responding to your employees' requests for MSDSs to ensure normal work operations. These procedures must be written and be consistent for all employees similarly situated.

E. EMPLOYEE RIGHT TO REFUSE WORK

The Massachusetts Right to Know Law allows an employee the right to refuse work with a substance on the Massachusetts Substance List if:

1. The employee requested in writing a copy of the MSDS for a specific product from you, the employer,

AND,

2. You did not, within four working days, provide the employee with either a copy of an up-to-date and/or complete MSDS or proof of your diligent efforts to obtain the MSDS.

The employee can refuse to work only with that product if the above conditions are met. All other job responsibilities must be fulfilled. The employee is entitled to the same wages and benefits as before. Once you supply the MSDS or proof of diligent efforts to obtain it, the employee must resume working with that substance. The employee may file a complaint with the Division of Occupational Safety (DOS) if he or she is denied the right to refuse work. The Commissioner of DOS will hold a hearing within ten days to resolve the complaint.

F. ESSENTIAL PUBLIC EMPLOYEES' RIGHT TO REFUSE WORK

Public sector employees who provide essential services for a city, town or political subdivision of the Commonwealth do not have this same right. Any job classification considered essential must be determined as such by the senior administrator of a city or town or by the chief officer of a political subdivision. The employer must notify in writing all employees in these job classifications of their "essential services" status. A copy of the written determination must be kept in a central location with the MSDSs. Employees have a right to examine the written determination.

Employees may also appeal the determination to the Commissioner provided that they:

- 1 Are, have been, or may be exposed to a regulated substance,
- 2 Have requested an MSDS,
- 3 Have refused to work with the substance until the MSDS is provided (454 CMR 21.04 (2)).

Figure 2 on the following page will give a summary explanation of who has access to the MSDSs, and how and under what conditions they can gain that access.

Figure 2

ACCESS TO MSDSs: EMPLOYEES			
Who Can Gain Access	How They Must Request MSDSs	Your Responsibilities to Respond	
<p>1. Employee:</p> <p>An employee is anyone who is, has been, or may be exposed to toxic or hazardous workplace substances and worked for you on or after September 26, 1984. This includes both <u>current</u> and <u>former</u> employees.</p>	<p>Employees must request the MSDS in writing.</p>	<p>You must provide a copy of the MSDS, or proof of diligent effort to obtain the MSDS, within four working days for <u>current</u> employees and <u>within a reasonable period of time</u> for <u>former</u> employees.</p>	
<hr/>			
<p>2. Employee Designated Representative:</p> <p>A. Collective Bargaining Agent</p> <p>B. Treating Physician (upon written employee authorization)</p>	<p>Same as above</p>	<p>Same as above</p>	
<p>1. Non-Medical Emergency</p> <p>2. Medical Emergency:</p>	<p>Same as above</p>	<p>Same as above</p>	
<p>This involves a serious medical condition which poses an imminent threat to an employee's health (see 105 CMR D (3)). Medical personnel can make the request acting under the direct instruction of a physician.</p>	<p>Request may be made orally (personally or by phone) but must be followed by a written request mailed to you within 24 hours.</p>	<p>You must provide the MSDS immediately.</p>	
<p>3. Trade Secret</p>	<p>Same as above but you may require the treating physician to sign a "Physician's Confidentiality Agreement." The physician must sign it and mail it back to you within 24 hours of receiving it. (See Appendix A)</p>	<p>You must provide the names of the substances in the products if you have access to the information even if they are registered as trade secrets with the Department of Public Health.</p>	
<hr/>			
<p>3. Representative for deceased or legally incapacitated employees:</p> <p>This may be a spouse, guardian or executor</p>	<p>MSDS request must be in writing.</p>	<p>Same as Number 1.</p>	

Figure 3:
Sample Material Safety Data Sheet:

Material Safety Data Sheet **U.S. Department of Labor**

May be used to comply with Occupational Safety and Health Administration OSHA's Hazard Communication Standard, (Non-Mandatory Form) 29 CFR 1910.1200. This Standard must be Form Approved consulted for specific requirements. OMB No. 1218-0072

IDENTITY (As Used on Label and List)	Note: Blank spaces are not permitted. If any item is not applicable, or no information is available, the space must be marked to indicate that.
--------------------------------------	---

Section I

Manufacturer's Name	Emergency Telephone Number
Address (<i>Number, Street, City, State, and ZIP Code</i>)	Telephone Number for Information
	Date Prepared
	Signature of Preparer (<i>optional</i>)

Section II - Hazard Ingredients/Identity Information

[illegible]

Section III - Physical/Chemical Characteristics

Boiling Point		Specific Gravity (H ₂ O = 1)	
Vapor Pressure (mm Hg.)		Melting Point	
Vapor Density (AIR = 1)		Evaporation Rate (Butyl Acetate = 1)	
Solubility in Water			
Appearance and Odor			

Section IV: Fire and Explosion Hazard Data

Flash Point (Method Used)	Flammable Limits	LEL	UEL
Extinguishing Media			
Special Fire Fighting Procedures			
Unusual Fire and Explosion Hazards			

Section V: Reactivity Data

Stability	Unstable		Conditions to Avoid
	Stable		
Incompatibility (<i>Materials to Avoid</i>)			
Hazardous Decomposition or Byproducts			
Hazardous Polymerization	May Occur		Conditions to Avoid
	Will Not Occur		

Section VI - Health Hazard Data

Route(s) of Entry:	Inhalation?	Skin?	Ingestion?
Health Hazards (<i>Acute and Chronic</i>)			

Carcinogenicity:	NTP?	IARC Monographs?	OSHA Regulated?
Signs and Symptoms of Exposure			
Medical Conditions Generally Aggravated by Exposure			
Emergency and First Aid Procedures			

Section VII - Precautions for Safe Handling and Use

Steps to Be Taken in Case Material is Released or Spilled
Waste Disposal Method
Precautions to Be taken in Handling and Storing
Other Precautions

Section VIII - Control Measures

Respiratory Protection (<i>Specify Type</i>)		
Ventilation	Local Exhaust	Special
	Mechanical (<i>General</i>)	Other
Protective Gloves		Eye Protection
Other Protective Clothing or Equipment		
Work/Hygienic Practices		

Section IX - Special Precautions

Precautions to be taken in Handling and Storing
Other Precautions

Each MSDS must be reviewed for correctness and completeness every three years.

Reviewed by _____ Reviewed by _____

Revision date _____ Revision date _____

HELP MODULE 4: CONTAINER LABELING

Labeling is a very important part of preventing job accidents. The label on a container provides an immediate source of information. It may identify the chemicals in the product and some of its hazards.

Under the Right to Know Law, there are labeling requirements for containers of substances on the Massachusetts Substance List (MSL). The following is a summary of those requirements and a list of exempt containers.

A. WHAT ARE THE LABELING REQUIREMENTS OF THE LAW?

The Right to Know Law requires that all containers of MSL substances that meet the following conditions be labeled with the chemical name(s) of the substances or ingredients:

1. The containers that hold more than one gallon or five pounds; and
2. The MSL substances are in concentrations of 1% or more, or 2% or more if present as an impurity, or 1 ppm (part per million) or more if an "extraordinarily hazardous substance". (If you are following the alternative policy, be sure that all size containers are labeled with the product name and hazard information, in compliance with the OSHA Hazard Communication Standard.)

B. WHICH CONTAINERS MUST BE LABELED?

1. Containers with a volume greater than one gallon or a weight more than five pounds must be labeled with the chemical name(s) of the MSL substance or the MSL ingredients of a mixture.
2. Containers of chemicals greater than five gallons or thirty pounds, which are listed in the NFPA (National Fire Protection Association) Code 49, have additional requirements. The appropriate NFPA label must be affixed to the containers along with the names of the chemicals. Chemical substances with NFPA codes are noted on the Massachusetts Substance List (MSL) with a (5) or (6) after the chemical name. For additional information on the specific codes, you can obtain the NFPA Hazardous Material Book (see Appendix G).
3. Pipes and piping systems must also be labeled with the chemical name(s) or chemical ingredients. Place the labels at points where employee exposure may occur during normal work procedures. Labels may be placed at pumps, spigots, and valves, etc. If applicable, the NFPA label must also be on the piping systems.

4. Vessels, fixed tanks or other containers must be labeled. Containers that regularly hold different chemical substances must be labeled with the chemical name(s) of the contents. Placards or signs may be used to identify the different chemical products in the containers at a given time. Again, if they contain more than five gallons or thirty pounds, the NFPA label must be on the container.

C. WHICH CONTAINERS ARE EXEMPT FROM THE LABELING REQUIREMENTS?

The Right to Know labeling requirements do not apply to certain containers. These exemptions apply only to labeling requirements. You are still required to obtain MSDSs for these products, and to train employees on the hazards. The following containers are exempt from labeling requirements:

1. Containers that are already properly labeled in accordance with the federal regulations of the:
 - . Department of Transportation (D.O.T.).
 - . Food, Drug & Cosmetic Act (F.D.A.),
 - . Atomic Energy Act (A.E.A.).
 - . Federal Insecticide, Fungicide, and Rodenticide Act (F.I.F.R.A.).
2. Small containers with a volume of less than or equal to one gallon or a weight less than or equal to five pounds.
3. Transfer containers if the container is:
 - . 10 gallons or less, and
 - . for immediate use by the employee,
 - and
 - . used by the employee doing the transferring.

D. OTHER LABELING REQUIREMENTS

The specific regulations pertaining to container labeling are summarized in the following paragraphs:

1. All labels must be prominently located on the container in its upright or usual position for use. Labels must be legible and shall be in English. They shall be in bold face letters, on a distinctly contrasting background, and weatherproof (if necessary). The type on labels shall comply with the following size requirements:

Size of container Label lettering size over 1 gallon or 5 lbs. 3/16 inch
over 5 gallons or 30 lbs. 1/4 inch over 10 gallons or 100 lbs. 1/2 inch

Labeling can be accomplished by stenciling, with pre-made labels, or other permanent method. You can make the labels yourself or order them from label manufacturers. See Figure 4 for examples of the type size requirements for the letters.

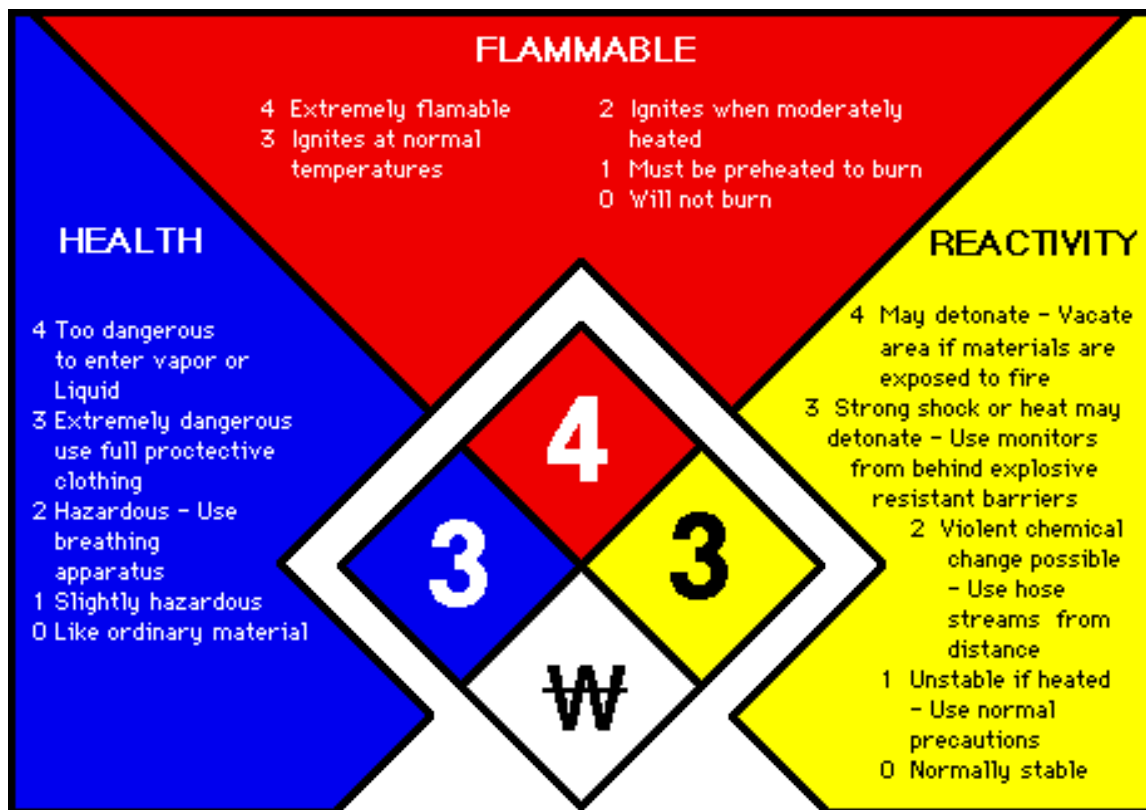
Figure 4: **Sample Labels**

Container Size	Label	Type Size
Over one gallon or 5 pounds	BENZENE	3/16" boldface
Over 5 gallons or 30 pounds	BENZENE	1/4" boldface
Over 10 gallons or 100 pounds	BENZENE	1/2" boldface

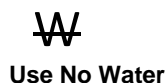
2. **NFPA Labeling:** As previously noted, some containers must be additionally labeled with the appropriate NFPA label. The NFPA label is a code giving the hazard of the materials, especially during fire or related emergency conditions. The familiar four-section, diamond-shaped label or placard indicates fire, health, reactivity and other specific hazards. NFPA diamond labels are available from label manufacturers. Figure 5 explains the codes on the NFPA label diamonds:

Poison

Figure 5: National Fire Protection Association (NFPA) Label



Special Notice Key (White)



3. Products Approved as "Trade Secrets" may not have to have the chemical names of their ingredients on the label of the container. However, the product must have a code number assigned to it by the Department of Public Health. This same code number must be on the MSDS and the product label so the appropriate MSDS stays linked to the product container.

If any of the ingredients in the product are identified on the MSL as a carcinogen, mutagen, teratogen or neurotoxin, the label must have a "C", "M", "T" or "N", respectively, to indicate these hazards. (For more information on trade secrets, see p. 26)

If applicable, the HFLPA label must also be on these containers.

Note: The manufacturer may already label use of many chemical products you purchase. You should be aware that the labeling standards used by the manufacturer might differ from those of the Massachusetts Right to Know Law. It is your responsibility to check that the labels satisfy the legal criteria. If they do not, you must label the containers properly.

E. INFORMATION THAT YOU SHOULD FIND ON THE LABELS

Labels may provide you with the following information that can be useful in your Right to Know activities:

1. the manufacturer's name, address, and phone number
2. chemical names, ingredients, trade or product names
3. hazard warnings (required under the OSHA Hazard Communication Standard but not the Massachusetts Right to Know Law)
4. NFPA fire, health, and explosion information

Note: If you are following the alternative policy, the following information must be on the label:

1. **name of the product (as it appears on the MSDS)**
2. **health and physical hazards**
3. **name and address of the manufacturer**

F. FURTHER INFORMATION The Division of Occupational Safety (DOS) can provide you with the NFPA codes for those pure chemicals requiring the NFPA label.

HELP MODULE 5: EMPLOYEE TRAINING

Employee training is a very important component of the Massachusetts Right to Know (RTK) Law. It is an important method for providing information about toxic substances to employees.

This module consists of three parts:

- A. A brief outline of the training requirements under the law.
- B. A sample curriculum.
- C. Suggestions on how to design the best possible training for employees.

A. OUTLINE OF TRAINING REQUIREMENTS

(These requirements are given in the law, Chapter 111F, section 15 and in the regulations, 454 CMR 21.07.)

TRAINING: - In non-technical language

-By a competent in-house instructor (or third party trainer registered with DOS)

-During employees' normal working hours

-At no cost to employees

WHEN: Annually for all employees who are or may be exposed under normal working conditions or foreseeable emergencies to any toxic or hazardous substance in the workplace

-Within thirty days of employment for new employees

CONTENT: The following information is derived from the law and regulations, and must be included in the RTK training:

1. Employee Rights

- Right to Know Workplace Notice posted
- Containers appropriately labeled
- Right to request copies of MSDSs
- Instruction and training
- Refusal to work if MSDS is not provided

- Protection against discrimination, discipline and discharge
- Filing of complaints, hearings and appeals

2. How to Read A Material Safety Data Sheet (MSDS)

Each section of an MSDS must be explained. Often one MSDS is used as an example. The MSDS can be of a commonly used material and should be accurate and complete.

3. Explanation of Specific Workplace Substances

- a. Health and safety hazards
- b. Proper handling procedures
- c. Appropriate use of protective clothing and equipment
- d. Specific labeling requirements for carcinogens, mutagens, teratogens and neurotoxins

RECORDKEEPING: Employers must maintain a record of training that includes the following information:

- 1 A description of the training or instruction given,
- 2 The date(s) the training was given,
- 3 The names of the employees who attended and the name of the instructor or trainer.

Records should be kept for the duration of employment and must be made available (upon request) to the Commissioner, Division of Occupational Safety or the Commissioner's representative.

B. RIGHT TO KNOW TRAINING CURRICULUM

This part of the module will further elaborate on the outline of training requirements mandated under the Massachusetts Right To Know (RTK) Law. If the training follows this curriculum, you will satisfy your responsibilities for training employees.

The employees who must be trained include all those who are or may be exposed to a substance on the Massachusetts Substance List (MSL) during the course of normal working conditions or in the event of a foreseeable emergency. This includes supervisors and foremen.

1. Review of Employees' Rights Under the Law

- a. **Workplace Notice Posted:** Employees should be informed that a RTK Workplace Notice detailing their rights must be in a central location. The notice must be in English and in the language(s) of non-English speaking

employees. Notices in English and Spanish are available free of charge from the Division of Occupational Safety (see p. 57).

- b. Containers appropriately labeled: Explain the labeling requirements of the law and how the labels can be used to request the correct MSDS. If any of your containers have labels that comply with the regulations of the Department of Transportation or certain federal acts (e.g., Atomic Energy Act) or NFPA (National Fire Protection Association) hazard labels, explain these labeling systems.
- If you use a substance that is an approved trade secret, the label must provide a code number if it does not give the chemical name(s). Your training should explain how the code number links the label to the appropriate MSDS (see p.26).
 - If any of the trade secret substances are Carcinogens, Teratogens, Mutagens or Neurotoxins, the labels must have a code number and a "C, T, M, or N". Again, these terms and the labeling system must be fully explained to employees.

[For more information on labeling system requirements, see Help Module 4: Container Labeling]

- c. Right to request copies of MSDS: Employees should be informed that they can obtain copies of MSDSs for any workplace product covered under the law by making a written request. As the employer, you may set up reasonable procedures for obtaining MSDSs so that normal work operations are not interrupted. These procedures must be in written form and fully explained during the training.
- d. Instruction and training: Make sure you inform employees of their right to initial and annual training (see outline for who must be trained. p.40).
- e. Refusal to work if MSDS is not provided: Inform employees that they can refuse to work with a substance on the Massachusetts Substance List (MSL) if they have submitted a request in writing for the MSDS on that substance and you, the employer, fail within four days to either provide the MSDS or to show proof of "diligent effort" to obtain the MSDS. The employee can only refuse to work with that substance, and must resume working with it once the MSDS or proof of diligent effort is provided. (For more information, see Help Module 3: Governmental Duties and Enforcement of the MA RTK Law)
- f. Protection against discrimination, discipline and discharge: Inform employees that they can file a complaint with the Commissioner of DOS within 180 days regarding any action (discipline, discrimination or discharge) taken against them for exercising their rights under the law. The RTK Notice explains this part but does not provide the following information on hearings and appeals.

- g. Filing complaints, hearings and appeals: Inform employees that they may file a complaint if they believe that their employer has violated the law by not providing training, adequate labeling, etc. (section 3) or if they feel they have been personally harassed for exercising their rights under the law (section 13).

Under section 3 of the law (general violation), the employee may file a written complaint or may telephone and follow-up with a letter to the DOS (see Appendix A).

- The Commissioner has 120 days to decide whether to initiate an investigation.
- If an investigation is initiated, the Commissioner must immediately notify the employer or manufacturer by certified mail.
- The employer or manufacturer has 20 days to respond to the notice.
- If there is a finding of no violation, the employer or manufacturer must be notified within 10 days.
- If there is a finding of a violation, the employer or manufacturer must be notified immediately. The Commissioner may use persuasion or issue a fine or penalty to correct the situation.

Under section 13 of the law (protection against personal discrimination for exercising one's rights), the employee must file a written complaint and at the same time send a copy of the complaint, by certified mail, to the employer.

- If the Commissioner determines that there is insufficient cause to believe that a violation of the employee's rights has occurred, the employee may request a hearing within 10 days of being notified of the Commissioner's determination.
- If the Commissioner determines that there is cause to believe a violation of the employee's rights has occurred, a hearing will be held.
- Decisions of the Commissioner may be appealed by the employee or employer in the Superior Court for the county in which the employer's workplace is located.
- If the employee files a complaint regarding the right to refuse to work with a substance, the Commissioner will hold a hearing within 10 days.

2. How to Read a Material Safety Data Sheet (MSDS) – In this part of the training, the following parts of an MSDS must be covered:

- Name, address, emergency telephone number
- Preparer's name, address and date
- List of ingredients and percentages
- Health information
- Occupational exposure limits
- First aid procedures
- Physical data
- Fire and explosion data
- Reactivity
- Employee protection
- Other regulatory controls.

The purpose of this part of the training is to help employees to know and understand the information provided on an MSDS. It may be possible to just go over one particular Material Safety Data Sheet (MSDS) and fulfill this part of the RTK training. The MSDS that you choose, though, should be complete (and accurate) and on a product that is familiar to the employees. If the MSDS you choose is lacking some information, such as health hazard information, you will have to supplement the training. How you do this is up to you. You can use another MSDS that has a complete health hazard section or use a slide/tape show or video that reviews all sections of an MSDS. Another useful resource is the booklet "Understanding MSDSs," which reviews in non-technical language all information provided by MSDSs. (It is available from the Division of Occupational Safety, see Appendix A.)

3. Specific Training on Workplace Hazards

This is the most important aspect of the Right to Know training because it will inform employees of the specific hazards of the substances used in their workplace. It is also mandatory to cover the proper handling procedures, and to provide an explanation on the use of protective clothing and equipment.

a. Can chemicals be grouped together?

Whenever possible, employees should be trained on each and every toxic or hazardous substance they are, or may be, exposed to under normal working conditions. (It is important to note that "normal working conditions" includes foreseeable emergencies). In many instances, however, a workplace may contain so many chemicals that training on the hazards of each and every substance would not be possible. In these situations, the training provisions of the RTK Law allow for training to be "generic to the extent appropriate and related to the job". This means that you may want to group substances and train on the hazardous properties of each grouping. One way to group substances is by their hazardous properties

(e.g., caustic, flammable, toxic through skin absorption, etc.). Another method is to group substances by their use in the workplace (e.g., cleaners, welding, etc.).

Note of Caution: Do not group extremely toxic or hazardous chemicals with a group of less dangerous substances. All extremely hazardous chemicals, (i.e. those designated as carcinogens, neurotoxins, mutagens or teratogens), should always be dealt with individually in the training program.

b. Should all employees be trained together?

There are no requirements in the law or regulations on how you set up the training. If you have a small number of employees and all are exposed to all of the substances used in the workplace, a single training session could cover the information on all of the chemicals. If you have a large workforce you may want to consider breaking into separate training groups of manageable size. If different groups of workers encounter different chemical hazards, they can be trained together on the first two parts of the training (employee rights and reading an MSDS) and then be separated into smaller "exposure" groups for the third part of the training (specific hazards).

Example: Your workplace consists of a painting shop and a grounds maintenance department. Workers in the two areas are exposed to different hazards. Your training program could consist of two sessions. At the first session, everyone would attend and the session and learn about their rights under the law and how to read an MSDS. For the second session, workers would be divided into two groups with each group being trained on the hazards that are unique to their job.

c. How should information be presented?

Another important consideration when training on the specific hazards is how to present the information. The law does allow the training to consist of only written materials if everyone can read; however, it is quite difficult to do this effectively. It is recommended that you use a combination of educational methods, such as written materials, group presentation, and an actual walk-through of the workplace to discuss the location of hazards, their effects and how to prevent harm. (See Learning Methods p. 50) In general, the more chances employees have to ask questions and get answers, the better the training.

d. What topics must be covered on specific workplace hazards?

The following list provides you with the topics that you must include in your training on specific workplace hazards:

- Chemical and common names: Probably the best way to present this information is to compile a list of the common product names with the corresponding chemical ingredient names. Different lists can be compiled for the different exposure groups.
- Location of hazardous substances: This can be included on your written list of chemicals.
- Health effects of hazardous substances: This information can be obtained by reviewing the MSDSs for each hazardous or toxic substance or by using other references (see Appendix G).
- First aid and antidotes: This information is found on the MSDSs
- Proper and Safe Handling: See the MSDSs
- Personal protective equipment: If engineering controls are not possible, personal protective equipment may be required. In these situations, this part of the training must provide orientation and explanation of protective clothing and equipment so employees can safely handle and use the toxic or hazardous substances in the workplace. Since different employees often use different substances, again you may want to break the employees into smaller groups. If employees must use respirators, for instance, and have not been fit-tested, then using only written materials may not suffice. This part of the training must include information on how and when to use the personal protective equipment and how to correctly maintain and store it.

If you would like technical assistance on designing and presenting your training, contact the Newton office of the Division of Occupational Safety.

C. SUGGESTIONS FOR A MORE EFFECTIVE TRAINING PROGRAM

The following suggestions are intended to help ensure that a Right To Know (RTK) training is as effective as it can be. These are not requirements, but can serve as an aid in planning and conducting the training.

1. Involve Employees and Direct Supervisors in the Planning of the Training:

Employees and their direct supervisors know first-hand the safety and health problems in the workplace. By involving employees, the RTK training program will more likely reflect their concerns and be well received. Health and safety committees and employee/management committees may provide an already existing structure. If they do not exist, a planning committee can be set up to work on a training program.

2. Make the RTK Training Part of the Overall Health and Safety Program:

The RTK training will inform employees of the hazards of certain substances and how to properly handle and use these substances. The whole process of planning and conducting the training provides an opportunity to review work practices, train employees on the importance and maintenance of personal protective equipment and reassess workplace hazards in general. You may also discover that certain chemicals are more dangerous than you had previously thought. This can lead to changing a work process, using better ventilation exhaust or even finding a safer chemical that can be substituted.

3. Plan Your RTK Training:

Use the following planning steps to ensure that your RTK training is well thought out and accomplishes its purpose(s).

- a. Perform a preliminary assessment of chemical hazards
 - Review all MSDSs in the workplace. Focus on the health information and safety precautions.
 - If helpful, separate the chemicals into generic groups based on similarities in health hazards, use at work, physical hazards, etc.
 - List chemicals by their location in the workplace so you know where hazards are most likely to be found.
- b. Decide who will be responsible for the training
 - Will you do the training in-house or hire an outside consultant? A list of registered third party instructors is available from the Division of Occupational Safety (see Appendix A).
 - Will one person do all the training of employees, or will the trainer first train supervisors and then the supervisors train employees?

The answers to these questions will probably depend on the number of employees and shifts, the funds available for training, the skills of your staff, and the number and types of chemical hazards found in your workplace.

c. Design the training

- Content: Many topics must be included in a Right to Know training, but priorities must be set so that more time is spent on the most important items. Some questions that you (with help from involved employees and supervisors) may have to answer are:
 - MSDSs - Should time be spent on many different MSDSs or are there a few substances that are extremely hazardous and require more employee training? (All hazardous substances should be covered in the training either directly by reviewing their MSDSs or indirectly by linking them to substances with similar hazards whose MSDSs will be reviewed.)
 - Personal protective equipment - Do some jobs, despite good engineering controls, require the use of personal protective equipment? If so, is the equipment used and maintained properly?
 - Labeling - Have you used a new labeling system and/or labeled more substances recently that should be more fully explained to employees?
 - Resources: You may want to acquire audio/visual materials and equipment, the use of a room of adequate size, written materials, etc. (see Appendix G).
- Learning Methods: Usually the more ways messages are conveyed, the better is the response. Your Right to Know training will be more effective if it uses more than one educational method. One example may be a combination of a short lecture, slide/tape show and written materials. A follow-up session is important to answer questions employees may have after they have read the written materials. Other educational methods include films, role plays (where participants play roles and enact a situation that may be similar to real working conditions), small and large group discussions and problem-solving exercises (where participants work together to solve problems similar to ones they may face on their jobs). The methods you choose will depend on:
 - The employees who are being trained - What is their educational level? Are they fluent in English? etc. The answers to these questions may indicate that written materials alone are not as useful as a slide/tape show followed by a question and answer session.

- The content of the training - Is the information highly technical and does it involve new concepts? Does it focus on safe work practices? The more technical the information, the more ways you will need to convey the message. Any written materials that are used must be in non-technical language. If safe work practices are a part of the training, it may make sense to do part of the training in the work area.
- Other objectives - Do employees need to know when and how to use personal protective equipment? A training that includes this objective should have a "hands-on" component. Employees should have an opportunity to practice putting on the equipment and maintaining it.

d. Test out your training

Test your training out on a small number of workers and staff if you have many employees to train. This will give you a chance to do a "dry-run" and to improve the program before training everyone.

e. Schedule your training

f. Conduct your training

g. Keep records of your training (see Recordkeeping)

h. Evaluate your training

The only way to know if the training has accomplished its objectives is to conduct an evaluation. You can use the evaluation to improve the training. This will be useful since training must be conducted annually for all employees and within thirty days of hire for new employees. The evaluation can consist of feedback from the employees (written and/or verbal), observations of work practices, pre- and post-tests for knowledge gain, etc. It is suggested that written evaluations be anonymous so that all employees feel comfortable in providing comments.

i. Plan your next annual training

Each year RTK training must be provided for your employees. The annual training is an opportunity to review the required topics and to give more instruction on important subjects. You may decide that there are many workplace chemicals in use that pose a fire hazard. Your annual training would then focus more on this topic. Other topics that may warrant more attention are first aid and the proper use of personal protective equipment.

Remember, training is required under the Right to Know Law and is a vital part of preventing injury and illness in the workplace. The Division of Occupational Safety can provide you with additional assistance (at no cost) in designing and conducting a training session and in locating educational and training resources and materials (see Appendix A).

HELP MODULE 6: RECORDKEEPING AND ONGOING TASKS

A. RECORDKEEPING

The law and its regulations only specify two areas of mandatory recordkeeping. However, this section will make practical recommendations for other forms of recordkeeping to facilitate compliance.

1. **Material Safety Data Sheets:** The law requires that employers maintain MSDSs for a period of thirty years. Copies of these MSDSs must be available to former employees and/or their representatives (see Figure 2 Access to MSDSs). It is probably easier to separate files on materials that are no longer in use from those still in the workplace.
2. **Training Records:** The regulations specify that employers keep records on the following aspects of employee training:
 - description of the training (see Module 5: Employee Training)
 - date of each training
 - names of employees receiving the training
 - names of trainers.

These records must be available to agents of the Commissioner of the Division of Occupational Safety. Records must be maintained for each employee as long as the employer employs him or her.

It is advisable (although not required) that you ask employees to sign an attendance sheet after attending training. Provide a form that specifies the areas of training covered. For example, an employee would state that she had been trained on the hazards and safe handling of solvents used in her job rather than simply saying that she had general health and safety training.

B. ONGOING TASKS

The following areas of responsibility have been covered in previous sections of this manual. They are consolidated here to give an overview of the ongoing tasks an employer must perform to stay in compliance with the Right to Know Law. Use this section as a checklist to help assure that your program is up-to-date.

1. **Regular Review of Workplace Products**

It is recommended that all of your purchase contracts include a clause that requires an MSDS to accompany each initial product shipment. New products

should be added to the product inventory. If the shipment is accompanied by an MSDS, send it to the Right to Know coordinator for review and filing. If no MSDS is sent, notify the coordinator and give the name of the product and the manufacturer so that he or she can request the information (see Help Module 3, p.23). If the new product does contain MSL substances, training and labeling requirements must be fulfilled.

2. Updated MSDSs

Evaluate new information on an updated MSDS as it comes into the workplace. It is advised that if updates are received in any form other than a revised MSDS you ask the manufacturer to incorporate the new information into a current MSDS so as to remove any possibility of legal liability for you, the employer.

3. Changes in the Massachusetts Substance List

If you are not using the alternative policy, you will need to consult the latest version of the MSL. Copies of updated versions of the MSL can be obtained from the Statehouse Bookstore (see Appendix C).

4. Training

As mentioned above, employees must be trained annually. In addition, new employees must be trained within thirty days of hire. Monthly checking of training needs should be sufficient to keep all employees up to date. Training, even for previously trained workers, should reflect any changes in the substance list, in updated MSDSs and in employee exposure.

5. Labeling

All new products should be checked to ensure they are properly labeled. Older products should be periodically inspected to determine if the labels are still affixed and legible. As stated in Help Module 4, transfer containers must be labeled unless they are under 10 gallons and will be used the same day by the employee who made the transfer. If chemicals are transferred from a main source into smaller containers for routine use, these containers must be labeled with the chemical names of the ingredients. Care should be taken to keep the label from getting obliterated by chemicals or from being removed from the container. This is an ongoing responsibility that is best delegated to individuals working in the department where the chemicals are used.

6. Changes in the Massachusetts Right to Know Law

The Right to Know Law, like any law, may be amended or have its scope altered due to state or federal legislation. If you have any questions about the workplace portion of the RTK law, contact DOS.

SECTION III

ENFORCEMENT OF THE MASSACHUSETTS RIGHT TO KNOW LAW

This part will focus on violations of the section of the Massachusetts Right to Know Law enforced by the Division of Occupational Safety (DOS).

In general, there are two types of violations.

I. The employer fails to comply with a provision of the RTK Law (section 3). For example, employees do not receive training, containers are improperly labeled, etc.

II. The employer discharges or discriminates against an employee who has exercised his/her rights provided under the law (section 13).

I. Section 3. FAILURE TO COMPLY WITH THE LAW

A. Wrongful Violations of Section 3

1. Cause to Believe

If the Program Manager of DOS has cause to believe that an employer has failed to comply with the law, he or she may initiate an investigation. A complaint filed with DOS by an employee constitutes a cause to believe that a violation of the law may be occurring. A "cause to believe" can also be generated by accident and investigation reports prepared by DOS inspectors and referrals from other state and federal agencies.

2. Workplace Investigation

The Program Manager of DOS has 120 days from the date of receiving knowledge of a violation to decide whether to initiate an investigation. If an investigation is initiated, you, as the employer; would be notified immediately by certified mail. The notification would include the nature of the alleged violation and when it was alleged to have occurred. You have 20 days to send a written response. The investigation, including a workplace inspection, may be conducted either before or after your 20 day response period. The Program Manager of DOS makes this decision.

3. Findings of the Investigation

- No wrongful violation has occurred: In this situation, you would be notified within 10 days.
- Good cause to believe a wrongful violation has occurred: The Program Manager would notify you immediately and begin the process of eliminating the alleged violation by conference, conciliation and persuasion. In case of failure to eliminate the violation, the Commissioner may issue cease and desist orders and also request the Attorney General to enforce the issued orders.

- **Penalties:** The Commissioner may impose upon an employer a fine of up to \$250.00 for each day that a wrongful violation continues. The Commissioner may request the Attorney General to enforce fines and penalties.
- **Judicial Review:** Any employer aggrieved by an order of the Commissioner may obtain judicial review in the Superior Court for the county in which the violation occurred.

B. Willful and Intentional Violations of Section 3:

1. Cause to Believe

A "cause to believe" is generated in the same way as is case of an alleged wrongful violation.

2. Action by the Commissioner

If the Commissioner of DOS has cause to believe that you (as an employer or manufacturer) have willfully and intentionally violated the Massachusetts Right to Know Law, he can report the alleged violation to the Attorney General. The Commissioner may also request that the Attorney General bring action in court to stop the violation and seek penalties.

3 . Penalties

If you are found to have willfully or intentionally violated the Massachusetts Right to Know Law, you are guilty of a misdemeanor.

- First offense - a fine of not more than five hundred dollars for each day the violation continues and/or imprisonment for not more than thirty days.
- Subsequent offense - a fine of not more than one thousand dollars for each day the violation continues and/or imprisonment for not more than ninety days.

Note: An employee cannot take any private action against you, the employer, or against a manufacturer under the RTK Law. The responsibility for enforcement lies exclusively with the Attorney General.

II Section 13: DISCHARGING OR DISCRIMINATING AGAINST AN EMPLOYEE

A. General

1. Employee Complaint

-Any employee who believes that he or she has been discriminated against or discharged for exercising his or her rights under the Right to Know Law may

file a verified complaint with the Commissioner of DOS. The employee has 180 days to file after that violation occurred or after discovering that the violation occurred.

- When the employee files with the Commissioner of DOS, he or she must also send a copy by certified mail to you, the employer.

After receipt of the verified complaint, you have 20 days to file a response with the Commissioner of DOS.

2. Investigation

When DOS undertakes an investigation of the alleged violation, two results are possible:

- The Program Manager may determine that there is insufficient evidence to believe a violation occurred. In this case, both you and the employee must be notified within 10 days. The employee has the right to request an adjudicatory hearing within 10 days of being notified of the Program Manager's determination.
- The Commissioner may determine that there is cause to believe a violation occurred. Again, both you and the employee must be notified within 10 days. The Commissioner will then conduct an adjudicatory hearing. If after the hearing, the Commissioner determines that you as the employer did violate the Massachusetts Right to Know Law, action may be taken to change the situation. This action can include a cease and desist order or other affirmative action.

3. Appeal

Either you or the employee may appeal the Commissioner determination in the Superior Court in the county where your workplace is located.

B. Discrimination Against an Employee who Refuses to Work with a Substance

An employee has the right to refuse to work with any substance on the Massachusetts Substance List under very limited conditions. The right to refuse is valid if the employee makes a written request for an MSDS to you and you do not give to him or her within four working days, a copy of the MSDS or proof of your written efforts to obtain it. If an employee files a written complaint for discrimination and violation of the RTK Law after exercising her or his right to refuse to work with a substance, the Commissioner will hold an adjudicatory hearing within 10 days to resolve the complaint.

Note: An employee of the Commonwealth who is designated as performing essential services is not granted this right. (See Help Module 3).

SECTION IV

APPENDICES

Appendix A

GOVERNMENT AGENCIES

Massachusetts Division of Occupational Safety (DOS)

1001 Watertown Street West
Newton, MA 02465
(617) 969-7177
www.mass.gov/dos

Provides assistance to cities, towns and state agencies in complying with the employee portion of the Right to Know Law. Also, investigates health and safety complaints at municipal and state workplaces.

National Institute for Occupational Safety and Health (NIOSH)

4676 Columbia Parkway
Cincinnati, OH 45226
(800) 356-4674
www.cdc.gov/niosh

Provides information and technical assistance on occupational health and safety hazards.

Occupational Safety and Health Administration (OSHA), Region I

JFK Building, Room 340
Boston, MA 02203
(617) 565-9860
www.osha.gov

Enforces occupational health and safety regulations in the private sector; provides information on occupational health and safety.

Appendix B

RIGHT TO KNOW WORKPLACE NOTICE

The Commonwealth of Massachusetts Department of
Labor and Workforce Development Division of
Occupational Safety

The **RIGHT TO KNOW LAW, Chapter 111F** of the Massachusetts General Laws, provides rights to Public Sector employees* regarding the communication of information on toxic and hazardous substances. These rights include:

WORKPLACE NOTICE- A notice must be posted in a central location in the workplace informing employees of their rights under the law. The notice must be in the English language. In workplaces where employees' first language is other than English, the notice must be posted in that language.

TRAINING- Employers must provide an annual training program to employees who work with toxic or hazardous substances. New employees must receive training within thirty days from date of hire. The training program must be conducted by a competent person and may be in the form of verbal and/or written instruction. At a minimum, training must include an explanation of employee rights, information on how to read an MSDS, the specific hazards of the chemicals used, handled or stored in the workplace, the type of personal protective equipment to be worn, and information on labeling of hazardous substances. This training must be done with pay during the employee's normal work shift or work hours. A record of this training must be maintained by the employer.

MATERIAL SAFETY DATA SHEET (MSDS)- The Material Safety Data Sheet is the document that provides information on each toxic or hazardous substance used or stored in the workplace. An employee or his or her designated representative has the right to obtain and examine the MSDS for any toxic or hazardous substance to which the employee "is, has been, or may be", exposed, if the employee's request is made to the employer in writing. After four working days from the date the request is made, an employee can refuse to work with the substance under two circumstances:

1. The employer fails to: (a) furnish the employee with the MSDS and (b) furnish the employee with proof that the employer has exercised diligent effort to obtain the MSDS,

either through the manufacturer or through the Program Manager of the Division of Occupational Safety, or,

2. The MSDS provided by the employer is incomplete or outdated.

LABELING- All containers in the workplace of more than five pounds or more than one gallon, containing toxic or hazardous substances, must be labeled with the chemical name of the substance. Containers of mixtures must be labeled with the chemical name of each toxic or hazardous constituent when the constituents comprise one percent or more of the mixture. Containers must also be labeled with the appropriate National Fire Prevention Association (NFPA) symbol if available. Labels must be clear, prominent, in English and weather resistant. There are some exceptions to the labeling requirements for containers which are labeled in accordance with certain Federal laws.

NON-DISCRIMINATION- An employee who believes he or she has been discharged, disciplined, or in any other manner discriminated against by an employer for exercising rights granted under the Law, has one hundred eighty days following the violation of the Law or following the date on which he or she obtained knowledge that a violation occurred, to file a complaint with the Commissioner of the Division of Occupational Safety. A copy of the complaint must be sent to the employer at the same time by certified mail.

NOTE- The employee rights listed above are further defined in Chapter 111F of the Massachusetts General Laws and the Code of Massachusetts Regulations 454 CMR 21.00. Copies of the law and regulation can be obtained at the Statehouse Bookstore (617-727-2834).

All Right-to Know Inquiries should be addressed to:

Program Manager
Division of Occupational Safety
1001 Watertown Street, 2nd Floor
West Newton, MA 02465
(617-969-7177)
(Fax: 617-727-4581)

*Private sector employees in Massachusetts are covered by a similar regulation, the Hazard Communication Standard (29 CFR 1910.1200), enforced by the federal Occupational Safety and Health Administration (OSHA 617-565-9860).

Appendix C

HOW TO OBTAIN MASSACHUSETTS RIGHT TO KNOW DOCUMENTS

THE RIGHT TO KNOW LAW AND REGULATIONS

The Right to Know Law and its regulations, including the Massachusetts Substance List, are available for purchase at the following locations:

Massachusetts State House
Room 116
Boston, MA 02133
(617) 727-2834

Secretary of State/Western Office Bookstore,
436 Dwight Street
Springfield, MA 01103
(413) 784-1376

The documents' official designations are as follows:

- M.G.L. 111F: Massachusetts Right to Know Law
- 105 CMR 670: Department of Public Health Rules and Regulations
- 310 CMR 33: Department of Environmental Protection Rules and Regulations
- 454 CMR 21: Division of Occupational Safety Rules and Regulations

Please keep in mind that the Massachusetts Substance List (MSL), under the Massachusetts Right to Know Law, is required to be reviewed annually by the Commissioner of the Department of Public Health, though new substances can be added at any time. When amendments to the MSL go into effect, the amended MSL will be published in the Massachusetts Register.

Appendix D

INDEX TO THE MASSACHUSETTS RIGHT TO KNOW LAW (M.G.L. CHAPTER 111F)

Section 1	- Definitions
Section 2	- Basic agency responsibilities
Section 3	- Cause to believe - Inspections - Penalties for non-compliance
Section 4	- Massachusetts Substance List - Designation of carcinogen, mutagen, neurotoxin and teratogen - Mixtures - Interagency efforts in writing Material Safety Data Sheets and providing information to the public
Section 5	- Trade secrets
Section 6	- Research laboratory exemptions
Section 7	- Labeling requirements and exemptions
Section 8	- Manufacturers and suppliers' responsibility to provide and prepare material safety data sheets (MSDS) -Updating information on MSDSs
Section 9	- Exemptions to provide Material Safety Data Sheets to purchasers - Diligent effort by employer to obtain MSDSs -Employer's requests for assistance
Section 10	- Mixture Material Safety Data Sheet (MSDS)
Section 11	- Definition of a Material Safety Data Sheet - Employer's responsibility to provide Material Safety Data Sheets - Employee rights to Material Safety Data Sheets - Right to refuse work - Workplace notice - Independent contractors
Section 12	- Access to MSDSs by the employee's physician
Section 13	- It is unlawful to discipline, discharge, or otherwise discriminate against an employee for exercising his or her rights under the Law

- Section 14 - Employer's must maintain records for 30 years
- Section 15 - Workplace training requirements
- Section 16 - Filing Material Safety Data Sheets with DEP, and upon request,
with the local Municipal RTY Coordinator
- Section 17 -Requests for Material Safety Data Sheets by state agencies
- Section 18 -Community resident accesses to MSDSs
- Section 19 - Access to Material Safety Data Sheets during emergencies by
municipal officials
- Section 20 - Access to MSDSs by community residents' treating physician
- Section 21 - Rules for non-disclosure of information on MSDSs

Appendix E

DIRECTORY OF PRIVATE AGENCIES AND ORGANIZATIONS

1. American Lung Association of Massachusetts
1 Abbey Lane
Middleboro, MA 02346
(508) 947-7208; (617) 787-5864
www.lungusa.org/Massachusetts

State office of a national association dedicated to the prevention and control of lung disease and factors such as air pollution that aggravate such conditions. They have expertise in such areas as occupational lung diseases and can provide educational materials.

2. Massachusetts Health Officers Association
PO Box 1644
Wakefield, MA 01880
(781) 740-2442
www.mhoa.com

An Association of Town and City Health Boards with expertise's in hazardous waste management, pesticides and sanitary landfill management. Provides help to municipal boards on general health board issues.

3. Massachusetts Coalition for Occupational Safety and Health (MassCOSH)
12 Southern Ave.
Boston, MA 02124
(617) 825-7233

A non-profit organization that provides technical, medical, legal and educational assistance to unions and workers on health and safety issues.

4. Massachusetts Cooperative Extension Service
Draper Hall
University of Massachusetts
Amherst, MA 01003
(413) 545-4800
www.umass.edu/umext

Statewide organization with expertise in environmental and natural resource areas which can provide the public with information and technical assistance on environmental and toxic materials education, and other topics.

5. Massachusetts Poison Control Center
(617) 232-2120 or 1-800-682-9211

Provides medical information, 24 hours a day, on the prevention and treatment of accidents that involve the ingestion of any potentially poisonous substance.

6. Massachusetts Public Health Association
434 Jamaicaway
Boston, MA 02130
(617) 524-6696
www.mphaweb.org

Dedicated to the goal of optimal workplace and environmental health.

7. Massachusetts Safety Council, Inc.
100 Grandview, Suite 304
Braintree, MA 02184
(800) 732-6729
www.masafetycouncil.org

A private non-profit organization involved in the safety and health education of employers as well as the general public.

8. Coalition on New Office Technology (CNOT)
650 Beacon St., 5th floor
Boston, MA 02215
(617) 247-6827
www.rsiaction.org

A non-profit organization that provides education and resources for employees and employers on the prevention of health hazards associated with office technology.

9. Safety Council of Western Massachusetts
1000 Wilbraham Rd.
Springfield, MA 01109
(413) 783-1632
www.scwm.org

A private, non-profit chapter of the National Safety Council. Emphasis is on occupational safety and health, training programs and services.

10. University of Massachusetts Department of
Environmental Health and Safety
Morrill Science Center, N414
Amherst, MA 01003
(413) 545-2682
www.umass.edu/safety

Offers technical assistance in developing environmental health and safety programs and services.

11. Western Massachusetts Coalition for Occupational Safety and Health
(Western MassCOSH)
640 Page Blvd.
Springfield, MA 01104
(413) 731-0760

A non-profit organization that provides technical, medical, legal and educational assistance to unions and workers on health and safety issues.

Appendix F

REFERENCES FOR A SAFER AND HEALTHIER WORKPLACE

As technology and the use of chemicals have increased in industry, so has our need for information. There is no single source that will provide you with everything you need. Many of the technical books are expensive except for those produced by the National Institute for Occupational Safety and Health (NIOSH), and state and non-profit organizations; they are often less expensive or free. If you do not wish to purchase expensive references, they can sometimes be found in public or university libraries.

1. American Conference of Governmental Industrial Hygienists, TLVs – Threshold Limit Values for Chemical Substances, Physical Agents and Biological Exposure Indices, Cincinnati: ACGIH. American Conference of Governmental Industrial Hygienists, 1330 Kemper Meadow Drive, Cincinnati, OH 45240. tel. (513) 742-2020. www.acgih.org

This booklet lists ACGIH's recommended exposure limits, updated yearly.

2. Levy. B. and D. Wegman. Occupational Health: Recognizing and Preventing Work-Related Disease. Boston: Little, Brown and Company, 1983. Little, Brown and Company, 3 Center Plaza, Boston, MA. Tel: (617) 227-0730.

This source provides an over-view of the diseases and disorders caused by workplace exposures. Useful, annotated bibliographies follow each chapter.

3. NIOSH, Pocket Guide to Chemical Hazards. Washington, D.C.: U.S. Government Printing Office. 1997. NIOSH Publication No. 97-140, GPO Stock No. 017-033-00483-8. Individual copies are free. NIOSH Publications, 4676 Columbia Parkway, Cincinnati, OH 45226. tel. 1-800-356-4674. www.cdc.gov/niosh.

A convenient, pocket-sized book that has summary tables on almost 400 chemicals including their properties, exposure limits, health effects and protective equipment.

4. N.J. Department of Health. Hazardous Substance Fact Sheets. N.J. Department of Health. CN 368, Trenton, NJ 08625. Tel: (609) 984-2202.

The collection is made up of several hundred easy-to-read information sheets on substances on the N.J. Workplace Hazardous Substance List. The information is very thorough and useful for trainings.

5. NIOSH, Certified Equipment List: Respirators, Coal Mine Dust, Personal Sampler Units. Washington, D.C.: U.S. Government Printing Office, 1985. GPO Stock No. 017-033-00422-6. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Tel: (202) 783-3238.

This publication lists respirators certified by NIOSH as of October, 1985. It also lists the limitations for specific groups of respirators.

6. NIOSH, Respiratory Protection - A Guide for the Employee. Cincinnati: NIOSH, 1979. PB80189301, NIOSH Publication No. 78-193B. \$9.95. National Technical Information Service (NTIS), Port Royal Road, Springfield, VA 22161. Tel: (703) 487-4650.

This booklet discusses the basics of respiratory protection. Topics include selecting the appropriate respirator, medical aspects of respirator usage, maintenance and fit-testing of respirators.

7. Labor Occupational Health Program. Labor Educator's Health and Safety Manual. Berkeley, CA: LOHP, 1983. \$15.00. Labor Occupational Health Program, University of California. 2223 Fulton St., Berkeley, CA 94720, Tel: (415) 642-5507.

The Manual presents an intensive training program aimed at unionists. It is designed to provide them with the skills and knowledge needed to serve as in-house experts on health and safety.

Appendix G

MUNICIPAL RIGHT TO KNOW FACT SHEET

This fact sheet will highlight the worker portion of the Massachusetts Right to Know Law. It will not cover the community right to know process.

Following are details helpful in implementing the Massachusetts Right to Know Law as it applies to cities and towns:

WORKPLACE:

Many employees (for example, firefighters, inspectors, etc.) enter private and public workplaces in the community to perform their job duties. In these cases the definition of the workplace is expanded and includes all those private and public worksites. For training purposes, generic training is permitted to inform employees about the potential hazards to which they may be exposed. The request for MSDSs (for products in other worksites) is the same for municipal employees as other employees. They must give a written request to their municipal employer. The municipal employer (or the Right to Know Coordinator for the city or town) must make a written request for the MSDS to the employer, where the product is used or stored, to get the MSDS for the municipal employee.

ESSENTIAL PERSONNEL:

Employees covered by the RTK Law have the right to obtain and examine MSDSs for any substance to which the employee is, may be, or has been exposed. An employee may refuse to work with that substance if the employer has not furnished the requested MSDS or proof of diligent effort within four working days from the date of the written request (see p. 25 for more information). Public employees classified as performing essential service may not refuse to work with a substance under any circumstances. Municipalities may classify certain job titles or positions as "essential". Employees are to be notified of this decision in writing by the municipality. A copy of the written determination that the job is essential must be kept in a central location with the MSDSs, and employees must have access to the written determination. Employees have the right to appeal this designation to the Commissioner of the Division of Occupational Safety.

Note: The designation of employees as "essential" only applies to the right to refuse to work. All other aspects of the RTK Law (MSDSs, labeling and training) still apply.

Appendix H

MASSACHUSETTS SUBSTANCE LIST

The Massachusetts Substance List (MSL) contains over 1600 substances that are taken from ten different sources. The MSL is indexed alphabetically by chemical name and numerically by Chemical Abstract Service (CAS) number. After each chemical name is a number in parentheses that indicates which source was used. To obtain copies of the MSL, see Appendix C.

The following sources are used for the MSL:

1. International Agency for Research on Cancer (Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans, Supplement 4; Groups 1, 2A and 2B; and subsequent updates).
2. *Occupational Safety and Health Administration (OSHA), Toxic and Hazardous Substances - 29 CFR 1910. Subpart Z.
3. National Toxicology Program (NTP), list of chemicals published in the Annual Report on Carcinogens.
4. American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values for Chemical Substances and Physical Agents in the Workplace.
5. National Fire Protection Association (NFPA), Hazardous Chemicals Data (NFPA 49).
6. National Fire Protection Association (NFPA), Fire Hazard Properties of Flammable Liquids, Gases, Volatile Solids (NFPA 325 M) (All items rated II through IV as health hazards or III through IV as flammability or reactivity hazards).
7. Environmental Protection Agency (EPA), Carcinogen Assessment Group's List of Carcinogens (July 14, 1980).
8. Environmental Protection Agency (EPA), Restricted Use Pesticides - 40 CFR i. 162.30.
9. National Cancer Institute (NCI). Chu, Kenneth, et al. "Factors in the Evaluation of 200 National Cancer Institute Carcinogen Bioassays," Journal of Toxicology and Environmental Health. 8:251-280, 1981.

*National Institute for Occupational Safety and Health/ Occupational Safety and Health Administration, Occupational Health Guidelines for Chemical Hazards, contains the same substances as the OSHA List.

Appendix I

MSDS CRITERIA SHEET

Following are criteria that must be satisfied in order for a Material Safety Data Sheet (MSDS) to comply with the Massachusetts Right to Know Law.

Whether or not the manufacturer and preparer of the MSDS is located in Massachusetts, all MSDSs supplied to Massachusetts users covered by the Right to Know Law must comply with these criteria. The Division of Occupational Safety advises employers to insert a clause in their purchasing contracts that allows refusal of shipments of any first order not accompanied by a properly completed MSDS.

Employers should use the following criteria to review MSDSs so that they may, in turn, justify returning any incomplete MSDS to the manufacturer. For the benefit of the manufacturer, this sheet, properly checked, should accompany all returned MSDSs, so the manufacturer will know what information is missing and can promptly return it completed. Be sure to keep a copy for your own files.

Please note that all spaces must be filled out, even if only to say "Not Applicable".

PRODUCT NAME

PREPARER

- ____ Name of manufacturer or supplier
- ____ Complete street address
- ____ Emergency telephone number
- ____ Date MSDS was compiled or revised

HAZARDOUS INGREDIENTS/CHEMICAL IDENTITY*

- ____ Chemical name of product if a pure substance, or of each ingredient in a mixture**
- ____ Common name(s), if they exist
- ____ C.A.S. (Chemical Abstract Service) number of product if a pure substance or of each hazardous ingredient in a mixture (C.A.S. numbers are listed on Massachusetts Substance List.)***
- ____ Percentages of each hazardous ingredient***

PHYSICAL DATA

- ____ Boiling point
- ____ Vapor density
- ____ Vapor pressure
- ____ Flash point
- ____ Other pertinent physical data

SAFETY DATA

- ☐ Fire hazards
- ☐ Explosion hazards
- ☐ Reactivity

HEALTH RISK DATA

- ☐ Acute and chronic health effects in non-technical terms
- ☐ Any carcinogenic, teratogenic, mutagenic or neurotoxic effects as designated on the Massachusetts Substance List
- ☐ Medical conditions that may be aggravated by exposure
- ☐ Routes of exposure, i.e.. inhalation, skin, eyes and ingestion
- ☐ Symptoms of overexposure

SPECIAL PRECAUTIONS

- ☐ Proper safety precautions
- ☐ Safe handling procedures
- ☐ Proper protective equipment

EMERGENCY PROCEDURES

- ☐ First aid
- ☐ Emergency medical treatment
- ☐ Emergency fire procedures
- ☐ Spill procedures
- ☐ Disposal procedures

CONTROL MEASURES

- ☐ Recommended engineering controls (specify)
 - ☐ Recommended personal protective equipment (specify)
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* If a product is approved as a trade secret by the Massachusetts Department of Public Health (DPH), the manufacturer may omit the chemical name, common name, CAS number or percent from the MSDS. DPH assigns an eight-digit number to all approved trade secret products. All numbers begin with 99-. An example would be 99-999-999.

** Only those substances and ingredients listed on the Massachusetts Substance List must be provided. Please note, however, that if the product is not hazardous, the notation "No hazardous ingredients regulated by the Massachusetts Right to Know Law" must be written in the Hazardous Ingredients section of the MSDS. Only ingredients in concentrations of 1% or more must be listed. Exceptions are impurities in a mixture (must be at least 2%) and Extraordinarily Hazardous Substances (at least 1 part per million).

*** May not be found on the MSDS because not required under the OSHA Hazard Communication Standard.